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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 COOK PRODUCTIONS, LLC,

9 Plaintiff,

10 v.

11 THOMAS SWANICKE, et al.,

12 Defendants.

C16-1884 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable
14 Thomas S. Zilly, United States District Judge:

15 (1) Having reviewed defendant Shannon Reynolds's letter dated May 26, 2017,
16 which was docketed as a Notice of Appearance/Answer, docket no. 64, and the parties'
17 Joint Status Report, docket no. 69, the Court sua sponte VACATES the Order entered
18 July 24, 2017, docket no. 60, entering default against Reynolds. Reynolds is deemed to
19 have responded to plaintiff's Amended Complaint, docket no. 21.

20 (2) Discovery in this matter is hereby STAYED. The parties shall not
21 propound any discovery requests and, to the extent that they have already done so, no
22 response is required until further order of the Court. Plaintiff appears to have settled with
23 six individuals, namely Steve Austin, Steven Kasinger, Somchit Sithisak, Constance
Winters, Doe 12, and Doe 14. Because any liability in this matter will be joint and
several, both the remaining defendants and the Court are entitled to know the aggregate
amount plaintiff has already received in settlement. See LHF Prods., Inc. v. Does 1-19,
2017 WL 615197 at *3 (W.D. Wash. Feb. 15, 2017); LHF Prods., Inc. v. Doe 1, 2017
WL 615888 at *3 (W.D. Wash. Feb. 15, 2017) (awarding \$750 in statutory damages to
the plaintiff, with defendants being jointly and severally liable for such amount); see also
17 U.S.C. § 504(c)(1) (a copyright owner may elect to recover "an award of statutory
damages for all infringements involved in the action, with respect to any one work . . . for

1 which any two or more infringers are liable jointly and severally, in a sum of not less than
2 \$750 or more than \$30,000”). If plaintiff wishes to further pursue its claims against the
3 remaining defendants, it shall file, within fourteen (14) days of the date of this Minute
4 Order, a declaration listing the amounts each settling defendant has paid to plaintiff. If
5 no declaration is timely filed, the Court will presume that plaintiff has opted not to
6 proceed,¹ and this action will be dismissed with prejudice.

7 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
8 record.

9 Dated this 5th day of October, 2017.

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William M. McCool
Clerk

s/Karen Dews
Deputy Clerk

¹ To the extent that defendants who have settled with plaintiff paid more than their pro rata share of the amount of statutory damages the Court might award, they might have a right of contribution against the non-settling defendants, but such right will not benefit plaintiff. Although plaintiff might recover costs by further litigating this matter, it is unlikely to receive much in the way of attorney’s fees by persisting if, as the Court suspects, it has already received more in settlement than the amount in statutory damages that it ordinarily requests, *i.e.*, \$2,500, or that the Court usually awards, *i.e.*, \$750. The Court is aware that, in the series of cases involving Cobbler Nevada, LLC and the movie “The Cobbler,” starring Adam Sandler, plaintiff obtained default judgments of \$750 in statutory damages per defendant per infringement, but most of these default judgments were entered before the thoughtful decisions in *LHF Prods.* were issued, and having now more carefully studied the language of 17 U.S.C. § 504(c)(1), the Court provides notice to plaintiff and its attorney that, in future cases, statutory damages will be awarded only per “swarm” or case.